REMARKS

The Examiner has finally rejected claims 2-22 under 35 U.S.C. 102(e) as being anticipated by International Patent Application No. WO 01/01316 A2 to Evans et al. The Examiner has further finally rejected claims 3, 4, 14 and 15 under 35 U.S.C. 103(a) as being unpatentable over Evans et al. in view of U.S. Patent 5,502,766 to Boebert et al. In addition, the Examiner has finally rejected claims 7-10 and 17-20 under 35 U.S.C. 103(a) as being unpatentable over Evans et al. in view of U.S. Patent 5,034,980 to Kubota. Moreover, the Examiner has finally rejected claims 8, 9, 18 and 19 under 35 U.S.C. 103(a) as being unpatentable over Evans et al. in view of Kubota, and further in view of Boebert et al. Finally, the Examiner has rejected claims 10 and 20 under 35 U.S.C. 103(a) as being unpatentable over Evans et al. in view of Kubota, and further in view of U.S. Patent 4,281,216 to Hogg et al.

The Evans et al. reference discloses a system, method and article of manufacture for an electronic software distribution, post-download payment scheme with encryption capabilities, in which software is first at least partially encrypted ("damaged") (800) and is then distributed (e.g., made available for download by a user, 804, 806). A user is then able to submit payment (808), after which the user is provided with the appropriate decryption key (810).

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The subject invention relates to protecting protected material after receipt of the protected material. In particular, the method and apparatus of the subject invention receives the protected material undamaged. Then, as claimed in claim 1, the protected material is damaged (e.g., enciphered), and the damaged version is stored. During the damaging process, the apparatus verifies the authorization of the protected material. Based on the results of the verification, the apparatus repairs the damaged version enabling rendering of the repaired/undamaged version of the protected material. In a further embodiment, the undamaged protected material is allowed to be rendered (e.g., played back) during the verification process.

Applicant submits that Evans et al. neither discloses nor suggests distributing the software "undamaged", wherein the damaging is being performed on receipt of the undamaged software, and that the damaged software is then stored pending verification of authorization, whereupon the damaged software is repaired.

The Examiner indicates that Evans et al. discloses "means for receiving protected material", "means for generating a damaged version of said protected material", and "means for storing said damaged version of said protected material" at page 24, lines 25-30, in which "the clearinghouse receives, encrypts, and stores a master copy of the software" received from a publisher ("examiner considers the encrypted software as damaged content since without

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the decryption key is not usable; and wherein the generation of the damaged version of applicant's corresponds to encryption generation of the software"). The Examiner further indicates that Evans et al. discloses "a verifier for determining an authorization to process said protected material" at Fig. 8, block 808 "where the verifier accept the payment and sending the decryption key for the protected material; examiner considers the accepting of the payment as determination of authorization and sending the decrypted key as authorization for processing the protected material". In addition, the Examiner indicates that Evans et al. discloses "means for repairing the damaged version of said protected material in response to said verifier determining the authorization" at page 5, lines 3-25.

Applicant submits that while Evans et al. discloses each of the above elements, they are not part of a single apparatus as claimed in, for example, claim 22, but rather, are part of a system which includes several apparatuses, e.g., the clearinghouse (discussed but not shown in Evans et al.) as well as the end user's (508) computer system as shown in Fig. 4. As such, while the clearinghouse includes "means for receiving protected material", "means for generating a damaged version of said protected material", "means for storing said damaged version of said protected material", and "a verifier for determining an authorization to process said protected material", the

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clearinghouse does not include "means for repairing the damaged version of said protected material in response to said verifier determining the authorization". Correspondingly, while the end user's computer includes "means for storing said damaged version of said protected material", "a verifier for determining an authorization to process said protected material", and "means for repairing the damaged version of said protected material in response to said verifier determining the authorization", the end user's computer does not include "means for generating a damaged version of said protected material".

Applicant submits that the invention, as claimed in claim 22, is "An apparatus for receiving, protecting and storing material, said apparatus comprising...", and not "a plurality of apparatuses which collectively comprise...."

The Boebert et al. patent discloses a data enclave and trusted path system in which data is "damaged" prior to being stored on removable media. However, Applicant submits that Boebert et al. does not supply that which is missing from Evans et al., i.e., distributing the software "undamaged", wherein a single apparatus receives the undamaged software, damages the undamaged software, and then stores the damaged software pending verification of authorization, whereupon the single apparatus repairs the damaged software. In fact, it appears that all data with respect to Boebert et al. is enciphered prior to any transmission or storage.

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The Kubota patent discloses a microprocessor for providing copy protection, in which "A given digital data is exclusively OR'ed with a given encryption code to provide an encrypted output. Further if this encrypted output is again exclusively OR'ed with the same encryption code, the original input is obtained." (col. 4, lines 46-52).

However, Applicant submits that the Kubota patent does not supply that which is missing from Evans et al., i.e., a single apparatus receives the undamaged software, damages the undamaged software, and then stores the damaged software pending verification of authorization, whereupon the single apparatus repairs the damaged software.

The Hogg et al. patent discloses key management for encryption/decryption systems in which a key word is destroyed "responsive to an unauthorized attempt to read said at least one key word" or, alternatively, "responsive to said at least one key word being transferred from said keyloading means to a predetermined number of the security modules." (col. 12, lines 27-40).

However, Applicant submits that Hogg et al. does not supply that which is missing from Evans et al. and/or Kubota, i.e., a single apparatus receives the undamaged software, damages the undamaged software, and then stores the damaged software pending

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verification of authorization, whereupon the single apparatus repairs the damaged software.

In the Advisory Action, the Examiner states "...Applicant traversing the rejection based on interpretation that the Evans et al's elements are presented in many apparatus while Applicant's elements are within one apparatus. Examiner however considers an apparatus as an entity consist of many systems or elements that work together in order to do a require tasks in which all elements or at least one element is involved in the process. Webster dictionary also define the apparatus of a set of equipments designed for a particular use. Therefore applicant's arguments in that regard are not persuasive. Examiner however would reconsider if such differences are clearly shown in the claims in a manner that does not raise further consideration or search."

Applicant believes that the claims as amended clearly define over the prior art.

Applicant believes that this application, containing claims 2-22, is now in condition for allowance and such action is respectfully requested.

Respectfully submitted,

by _____
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